

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:99CR3043
)	
v.)	
)	
JOHN EDWARD MULL,)	MEMORANDUM AND ORDER ON
)	REMAND REGARDING CERTIFICATE
Defendants.)	OF APPEALABILITY
)	

The circuit court having remanded this matter for consideration of a Certificate of Appealability, I conclude that no Certificate of Appealability should issue because a requirement of 28 U.S.C. § 2253 that a Certificate of Appealability issue “only if the applicant has made a substantial showing of the denial of a constitutional right” has not been met.

The new claim being made by the defendant is that “the district court failed to resolve factual disputes found within the Presentence Investigation Report . . . before sentence was imposed.” That is insufficient to satisfy the showing of the denial of a constitutional right.

IT IS ORDERED that no Certificate of Appealability shall be issued.

Dated December 18, 2007.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge